

1 HOUSE BILL NO. 194

2 INTRODUCED BY BARRETT

3 BY REQUEST OF THE SECRETARY OF STATE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS RELATED TO THE FORMS
6 AND INFORMATION THAT MUST BE FILED WITH THE SECRETARY OF STATE BY A BUSINESS,
7 CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY;
8 PROVIDING RULEMAKING AUTHORITY TO REQUIRE USE OF STANDARDIZED FORMS; SPECIFYING THE
9 REINSTATEMENT APPLICATION PROCESS FOR LIMITED PARTNERSHIPS; ELIMINATING THE
10 REQUIREMENT FOR A COPY TO BE FILED WITH THE ORIGINAL FOR CERTAIN FILINGS; ELIMINATING
11 THE REQUIREMENT THAT THE SECRETARY OF STATE PROVIDE A SECOND RENEWAL NOTIFICATION
12 TO LIMITED LIABILITY PARTNERSHIPS; CLARIFYING THAT THE COMPLETE STREET ADDRESS MUST
13 BE PROVIDED WITH CERTAIN FILINGS; ELIMINATING THE REQUIREMENT TO PROVIDE THE NAME OF
14 THE CURRENT REGISTERED AGENT WHEN FILING A CHANGE OF OFFICE OR AGENT; REVISING WHO
15 SHALL SIGN A RESOLUTION CERTIFYING A CORPORATE NAME; PROVIDING THAT THE SECRETARY
16 OF STATE DELIVER A CONFIRMATION LETTER RATHER THAN THE DOCUMENT COPY WHEN A
17 DOCUMENT HAS BEEN RECEIVED; REQUIRING THAT A FILING FOR REINSTATEMENT INCLUDE COPIES
18 OF ALL ANNUAL REPORTS NOT PREVIOUSLY FILED; AND AMENDING SECTIONS 30-13-206, 30-13-207,
19 35-1-216, 35-1-217, 35-1-314, 35-1-1031, 35-1-1308, 35-1-1309, 35-2-310, 35-6-201, 35-8-105, 35-8-202,
20 35-8-210, 35-8-912, 35-12-601, ~~AND 35-12-606, 35-12-611, 35-12-612,~~ 35-12-1302, ~~AND 35-12-1303,~~ MCA."

21

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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24 NEW SECTION. **Section 1. Rulemaking authority and use of forms prescribed by secretary of**
25 **state.** The secretary of state may prescribe by rule a standard form for materials required to be filed with the
26 secretary of state pursuant to Title 35. If the secretary of state prescribes a standard form pursuant to this
27 section, the entity filing the form shall use the prescribed form.

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29 NEW SECTION. SECTION 2. REINSTATEMENT FOLLOWING CANCELLATION FOR FAILURE TO RENEW. (1) IF A
30 CERTIFICATE OF LIMITED PARTNERSHIP WAS CANCELED UNDER 35-12-610 FOR FAILURE TO RENEW, AN APPLICATION FOR

1 REINSTATEMENT OF THE ORIGINAL CERTIFICATE MAY BE MADE TO THE SECRETARY OF STATE WITHIN 5 YEARS AFTER THE
2 EFFECTIVE DATE OF THE CANCELLATION.

3 (2) THE APPLICATION MUST:

4 (A) STATE THE NAME OF THE LIMITED PARTNERSHIP AND THE DATE ITS CERTIFICATE OF LIMITED PARTNERSHIP
5 WAS CANCELED;

6 (B) STATE THAT THE LIMITED PARTNERSHIP'S NAME SATISFIES THE REQUIREMENTS OF 35-12-505; AND

7 (C) INCLUDE THE INFORMATION REQUIRED IN 35-12-601.

8 (3) IF THE SECRETARY OF STATE DETERMINES THAT THE INFORMATION PROVIDED IS SUFFICIENT AND CORRECT,
9 THE SECRETARY OF STATE SHALL REINSTATE THE CERTIFICATE OF LIMITED PARTNERSHIP AND SEND CONFIRMATION TO
10 THE LIMITED PARTNERSHIP.

11 (4) WHEN REINSTATED UNDER THIS SECTION, THE CERTIFICATE OF LIMITED PARTNERSHIP BECOMES EFFECTIVE
12 AS IF IT HAD NOT BEEN CANCELED.

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14 **Section 3.** Section 30-13-206, MCA, is amended to read:

15 **"30-13-206. Term and renewal of assumed business name registration.** (1) Registration of an
16 assumed business name is effective for a term of 5 years from the date of registration. Upon application for
17 renewal of registration on forms furnished by the secretary of state or by electronic means established by rule
18 by the board of review established in 30-16-302, the registration may be renewed for another 5-year term.

19 (2) Not less than 90 days before the expiration date of registration of an assumed business name, the
20 secretary of state shall notify the applicant of record of the pending expiration by addressing a notice to the
21 last-known address of the applicant.

22 (3) (a) Subject to subsection (3)(b), if the applicant or person in whose name an assumed business
23 name is registered fails to file an application for renewal with the secretary of state within a 90-day period prior
24 to the expiration date of the registration, the secretary of state shall cancel the registration.

25 (b) If a limited liability partnership fails to file an application for renewal with the secretary of state within
26 a 90-day period prior to the expiration date of the registration, ~~the secretary of state shall again notify the limited~~
27 ~~liability partnership of the pending expiration and give the limited liability partnership an additional 90 days within~~
28 ~~which to renew its registration. If the limited liability partnership fails to renew its registration within the second~~
29 ~~90-day period,~~ the secretary of state shall cancel the registration and the partnership is no longer a limited
30 liability partnership."

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Section 4. Section 30-13-207, MCA, is amended to read:

"30-13-207. Application for renewal of assumed business name. ~~One original and one copy of an~~
An application for renewal of registration of an assumed business name must be executed and delivered to the secretary of state. The application must include but is not limited to the following information:

- (1) the complete assumed business name;
- (2) the name and address, including street name and number, if any, of the applicant; and
- (3) a description of business transacted."

Section 5. Section 35-1-216, MCA, is amended to read:

"35-1-216. Articles of incorporation. (1) The articles of incorporation must set forth:

- (a) a corporate name for the corporation that satisfies the requirements of 35-1-308;
- (b) the number of shares the corporation is authorized to issue;
- (c) (i) the complete BUSINESS street address of the corporation's initial registered office and, if different, the mailing address; and
 - (ii) the name of its initial registered agent at that office; and
- (d) the name and address of each incorporator.
- (2) The articles of incorporation may set forth:
 - (a) the names and complete street addresses of the individuals who are to serve as the initial directors;
 - (b) provisions consistent with law regarding:
 - (i) the purpose or purposes for which the corporation is organized;
 - (ii) managing the business and regulating the affairs of the corporation;
 - (iii) defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;
 - (iv) a par value for authorized shares or classes of shares; and
 - (v) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;
- (c) any provision that under this chapter is required or permitted to be set forth in the bylaws; and
- (d) a provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any actions taken or any failure to take any action, as a director, except liability for:

- 1 (i) the amount of a financial benefit received by a director to which the director is not entitled;
2 (ii) an intentional infliction of harm on the corporation or the shareholders;
3 (iii) a violation of 35-1-713; or
4 (iv) an intentional violation of criminal law.
5 (3) The articles of incorporation are not required to set forth any of the corporate powers enumerated
6 in this chapter."

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8 **Section 6.** Section 35-1-217, MCA, is amended to read:
9 **"35-1-217. Filing requirements.** All of the following requirements must be met before a document is
10 entitled to be filed under this section by the secretary of state:

11 (1) A document that is required or permitted by this chapter to be filed in the office of the secretary of
12 state must satisfy the requirements of this section and of any other section that adds to or varies these
13 requirements.

14 (2) The document must contain the information required by this chapter. It may contain other information
15 as well.

16 (3) The document must be typewritten or printed.

17 (4) The document must be in the English language. A corporate name need not be in English if it is
18 written in English letters or Arabic or Roman numerals. The certificate of existence required of foreign
19 corporations need not be in English if it is accompanied by a reasonably authenticated English translation.

20 (5) The document must be executed:

21 (a) by the ~~chairman~~ presiding officer of the board of directors of a domestic or foreign corporation, by
22 its president, or by another of its officers;

23 (b) if directors have not been selected or the corporation has not been formed, by an incorporator; or

24 (c) if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that
25 fiduciary.

26 (6) The person executing the document shall sign it and state beneath or opposite the person's
27 signature the person's name and the capacity in which the person signs. The document may but need not
28 contain the corporate seal, an attestation by the secretary or an assistant secretary, and an acknowledgment,
29 verification, or proof.

30 (7) The document must be in or on the prescribed form if the secretary of state has prescribed a

1 mandatory form for the document under ~~35-1-1308~~ rules adopted pursuant to [section 1].

2 (8) The document must be delivered to the office of the secretary of state for filing and must be
3 accompanied by:

4 (a) ~~one copy, except as provided in 35-1-315 and 35-1-1036;~~

5 ~~(b)~~ the correct filing fee; and

6 ~~(c)~~(b) any franchise tax, license fee, or penalty required by this chapter, rules promulgated under this
7 chapter, or other law."

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9 **Section 7.** Section 35-1-314, MCA, is amended to read:

10 **"35-1-314. Change of registered office or registered agent.** (1) A corporation may change its
11 registered office or registered agent by delivering to the secretary of state, for filing, a statement of change that
12 sets forth:

13 (a) the name of the corporation;

14 (b) the street address of its current registered office and, if different, the mailing address;

15 (c) if the current registered office is to be changed, the street address of the new registered office and,
16 if different, the mailing address;

17 ~~(d) the name of its current registered agent;~~

18 ~~(e)~~ if the current registered agent is to be changed, the name of the new registered agent and the new
19 agent's written consent, either on the statement or attached to it, to the appointment; and

20 ~~(f)~~(e) that after the change or changes are made, the street addresses of its registered office and the
21 business office of its registered agent will be identical.

22 (2) If a registered agent changes the street address of its business office, that agent may change the
23 street address of the registered office of any corporation for which it is the registered agent by notifying the
24 corporation in writing of the change and signing, either manually or in facsimile, and delivering to the secretary
25 of state, for filing, a statement that complies with the requirements of subsection (1) and recites that the
26 corporation has been notified of the change."

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28 **Section 8.** Section 35-1-1031, MCA, is amended to read:

29 **"35-1-1031. Corporate name of foreign corporation.** (1) If the corporate name of a foreign corporation
30 does not satisfy the requirements of 35-1-308, to obtain or maintain a certificate of authority to transact business

1 in this state, the foreign corporation shall:

2 (a) add the word "corporation", "incorporated", "company", or "limited" or the abbreviation "corp.", "inc.",
3 "co.", or "ltd." to its corporate name for use in this state; or

4 (b) use a fictitious name to transact business in this state if its real name is unavailable and deliver to
5 the secretary of state, for filing, a copy of the resolution of its board of directors, ~~certified by its secretary~~ signed
6 by an officer of the board or the corporate presiding officer, adopting the fictitious name.

7 (2) Except as authorized by subsections (3) and (4), the corporate name of a foreign corporation,
8 including a fictitious name, must be distinguishable in the records of the secretary of state from:

9 (a) the corporate name of a corporation incorporated or authorized to transact business in this state;

10 (b) a corporate name reserved or registered under 35-1-309 or 35-1-311;

11 (c) the fictitious name of another foreign corporation authorized to transact business in this state;

12 (d) the corporate name of a not-for-profit corporation incorporated or authorized to transact business
13 in this state;

14 (e) the corporate name of a domestic corporation that has dissolved, but only for a period of 120 days
15 after the effective date of its dissolution; and

16 (f) any assumed business name, limited partnership name, limited liability company name, trademark,
17 or service mark registered or reserved with the secretary of state.

18 (3) A foreign corporation may apply to the secretary of state for authorization to use in this state the
19 name of another corporation, incorporated or authorized to transact business in this state, that is not
20 distinguishable in the secretary of state's records from the name applied for. The secretary of state shall
21 authorize use of the name applied for if:

22 (a) the other corporation consents to the use in writing and submits an undertaking in a form satisfactory
23 to the secretary of state to change its name to a name that is distinguishable in the records of the secretary of
24 state from the name of the applying corporation; or

25 (b) the applicant delivers to the secretary of state a certified copy of a final judgment of a court of
26 competent jurisdiction establishing the applicant's right to use the name applied for in this state.

27 (4) A foreign corporation may use in this state the name of another domestic or foreign corporation,
28 including the fictitious name, that is used in this state if the other corporation is incorporated or authorized to
29 transact business in this state and the foreign corporation:

30 (a) has merged with the other corporation;

1 (b) has been formed by reorganization of the other corporation; or

2 (c) has acquired all or substantially all of the assets, including the corporate name, of the other
3 corporation.

4 (5) If a foreign corporation authorized to transact business in this state changes its corporate name to
5 one that does not satisfy the requirements of 35-1-308, it may not transact business in this state under the
6 changed name until it adopts a name satisfying the requirements of 35-1-308 and obtains an amended certificate
7 of authority under 35-1-1029."

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9 **Section 9.** Section 35-1-1308, MCA, is amended to read:

10 **"35-1-1308. Forms.** (1) The secretary of state may by rule prescribe and furnish on request forms or
11 computer formats, including standard forms, for:

12 (a) an application for a certificate of existence;

13 (b) a foreign corporation's application for a certificate of authority to transact business in this state;

14 (c) a foreign corporation's application for a certificate of withdrawal;

15 (d) the annual report; and

16 (e) other documents required or permitted to be filed by this chapter.

17 (2) If the secretary of state ~~se~~ requires, use of any of the forms or formats listed in subsection (1) is
18 mandatory."

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20 **Section 10.** Section 35-1-1309, MCA, is amended to read:

21 **"35-1-1309. Filing duty of secretary of state.** (1) If a document delivered to the office of the secretary
22 of state for filing satisfies the requirements of 35-1-217 and 35-1-218, if applicable, the secretary of state shall
23 file it.

24 (2) The secretary of state shall file a document by stamping or otherwise endorsing "Filed", together
25 with the secretary of state's name, official title, and the date and time of receipt, on the original, the document
26 copy, and the receipt for the filing fee. Except as provided in 35-1-315 and 35-1-1034, after filing a document,
27 the secretary of state shall deliver ~~the document copy~~ a confirmation letter to the domestic or foreign corporation
28 or its representative, along with the filing fee receipt or acknowledgment of receipt if no fee is required.

29 (3) If the secretary of state refuses to file a document, the secretary of state shall return it to the
30 domestic or foreign corporation or its representative within 10 days after the document was delivered, together

1 with a brief written explanation of the reason for the refusal.

2 (4) The secretary of state's duty to file documents under this section is ministerial. The secretary of
3 state's filing or refusing to file a document does not:

4 (a) affect the validity or invalidity of the document in whole or part;

5 (b) relate to the correctness or incorrectness of information contained in the document; or

6 (c) create a presumption that the document is valid or invalid or that information contained in the
7 document is correct or incorrect."

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9 **Section 11.** Section 35-2-310, MCA, is amended to read:

10 **"35-2-310. Change of registered office or registered agent.** (1) A corporation may change its
11 registered office or registered agent by delivering to the secretary of state, for filing, a statement of change that
12 sets forth:

13 (a) the name of the corporation;

14 (b) the street address of its current registered office and, if different, the mailing address;

15 (c) if the current registered office is to be changed, the street address of the new registered office, and,
16 if different, the mailing address;

17 ~~(d) the name of its current registered agent;~~

18 ~~(e)~~ if the current registered agent is to be changed, the name of the new registered agent and the new
19 agent's written consent to the appointment, either on the statement or attached to it; and

20 ~~(f)(e)~~ that after the change or changes are made, the street addresses of its registered office and the
21 office of its registered agent will be identical.

22 (2) If the street address of a registered agent's office is changed, the registered agent may change the
23 street address of the registered office of any corporation for which the registered agent is the registered agent
24 by notifying the corporation in writing of the change and by signing, either manually or in facsimile, and delivering
25 to the secretary of state, for filing, a statement that complies with the requirements of subsection (1) and that
26 states that the corporation has been notified of the change."

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28 **Section 12.** Section 35-6-201, MCA, is amended to read:

29 **"35-6-201. Reinstatement of dissolved corporation -- fee.** (1) The secretary of state may:

30 (a) reinstate any corporation that has been dissolved under the provisions of this chapter; and

1 (b) restore to the corporation its right to carry on business in this state and to exercise all its corporate
2 privileges and immunities.

3 (2) A corporation applying for reinstatement shall submit to the secretary of state ~~one original and one~~
4 ~~copy~~ of the application, executed by a person who was an officer or director at the time of dissolution, setting
5 forth:

6 (a) the name of the corporation;

7 (b) a statement that the assets of the corporation have not been liquidated pursuant to 35-1-938 through
8 35-1-943 or 35-2-726 and 35-2-727;

9 (c) a statement that not less than a majority of its directors have authorized the application for
10 reinstatement; and

11 (d) if its corporate name has been legally acquired by another corporation prior to its application for
12 reinstatement, the corporate name under which the corporation desires to be reinstated.

13 (3) The corporation shall submit with its application for reinstatement:

14 (a) a certificate from the department of revenue stating that all taxes imposed pursuant to Title 15 have
15 been paid; ~~and~~

16 (b) a filing fee, which must be set and deposited by the secretary of state in accordance with 2-15-405;
17 and

18 (c) all annual reports not yet filed with the secretary of state.

19 (4) When all requirements are met and the secretary of state reinstates the corporation to its former
20 rights, the secretary of state shall:

21 (a) conform and file in the secretary of state's office reports, statements, and other instruments
22 submitted for reinstatement;

23 (b) immediately issue and deliver to the corporation that is reinstated a certificate of reinstatement
24 authorizing it to transact business; and

25 (c) upon demand, issue to the corporation one or more certified copies of the certificate of
26 reinstatement.

27 (5) The secretary of state may not order a reinstatement if 5 years have elapsed since the dissolution."
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29 **Section 13.** Section 35-8-105, MCA, is amended to read:

30 **"35-8-105. Registered office and registered agent.** (1) A limited liability company shall continuously

1 maintain in this state:

2 (a) a registered office that may but need not be the same as its place of business; and

3 (b) a registered agent for service of process ~~(, at the registered office),~~ on the limited liability company
4 that is either an individual resident of this state, a domestic corporation, a limited liability company, or a foreign
5 corporation or foreign limited liability company authorized to transact business in this state.

6 (2) Unless the registered agent signed the document making the appointment, the appointment of a
7 registered agent or a successor registered agent on whom process may be served is not effective until the agent
8 delivers a statement in writing to the secretary of state accepting the appointment.

9 (3) A limited liability company may change its registered office or registered agent, or both, by delivering
10 to the secretary of state a statement setting forth:

11 (a) the name of the limited liability company;

12 (b) ~~the address of its current registered office;~~ THE ADDRESS OF ITS CURRENT REGISTERED OFFICE;

13 ~~(c)~~(d) if the address of its registered office is to be changed, the new address of the registered office;

14 AND

15 ~~(d)~~(e) ~~the name and address of its current registered agent; and~~

16 ~~(e)~~(d) if its registered agent or the agent's address is to be changed, the name and address of the
17 successor registered agent or the current registered agent's new address.

18 (4) The change of address of the registered office or registered agent is effective on delivery of the
19 statement to the secretary of state. The appointment of a new registered agent is effective on delivery of the
20 statement to the secretary of state and on receipt by the secretary of state of evidence that the new registered
21 agent has accepted appointment pursuant to subsection (2).

22 (5) A registered agent of a limited liability company may resign as registered agent by delivering a
23 written notice and ~~2~~ two copies to the secretary of state. The secretary of state shall mail a copy of the notice
24 to the limited liability company at its registered office and its principal place of business. The appointment of the
25 registered agent terminates 30 days after receipt of the notice by the secretary of state or on the appointment
26 of a new registered agent, whichever occurs first.

27 (6) If a registered agent changes its address to another place in this state, it may change the address
28 by delivering a statement to the secretary of state as required by subsection (3), except that it need be signed
29 only by the registered agent. The statement must recite that a copy of the statement has been mailed to the
30 limited liability company."

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Section 14. Section 35-8-202, MCA, is amended to read:

"35-8-202. Articles of organization. (1) The articles of organization must set forth:

(a) the name of the limited liability company that satisfies the requirements of 35-8-103;

(b) whether the company is a term company and, if so, the term specified;

(c) the complete street address of its principal place of business in this state and, if different, its registered office and the name and complete street address of its registered agent at the registered office in this state;

(d) (i) if the limited liability company is to be managed by a manager or managers, a statement that the company is to be managed in that fashion and the names and street addresses of managers who are to serve as managers until the first meeting of members or until their successors are elected;

(ii) if the management of a limited liability company is reserved to the members, a statement that the company is to be managed in that fashion and the names and street addresses of the initial members;

(e) whether one or more members of the company are to be liable for the limited liability company's debts and obligations under 35-8-304(3);

(f) if the limited liability company is a professional limited liability company, a statement to that effect and a statement of the professional service or services it will render; and

(g) any other provision, not inconsistent with law, that the members elect to set out in the articles, including but not limited to a statement of whether there are limitations on the authority of members or management to bind the limited liability company.

(2) It is not necessary to set out in the articles of organization any of the powers enumerated in 35-8-107.

(3) The articles of organization may not vary the nonwaivable provisions set out in 35-8-109. As to all other matters, if any provision of an operating agreement is inconsistent with the articles of organization:

(a) the operating agreement controls as to managers, members, and a member's transferee; and

(b) the articles of organization control as to a person, other than a manager, member, and member's transferee, that reasonably relies on the articles of organization to that person's detriment."

Section 15. Section 35-8-210, MCA, is amended to read:

"35-8-210. Reinstatement of dissolved limited liability company. (1) The secretary of state may:

1 (a) reinstate a limited liability company that has been dissolved under the provisions of 35-8-209;
2 (b) restore to a reinstated limited liability company its right to carry on business in this state and to
3 exercise all of its privileges and immunities.

4 (2) A limited liability company applying for reinstatement shall submit to the secretary of state ~~one~~
5 ~~original and one copy of~~ the application, executed by a person who was a member at the time of dissolution,
6 setting forth:

7 (a) the name of the limited liability company;

8 (b) a statement that the assets of the limited liability company have not been liquidated;

9 (c) a statement that a majority of its members have authorized the application for reinstatement; and

10 (d) if its name has been legally acquired by another entity prior to its application for reinstatement, the
11 name under which the limited liability company desires to be reinstated.

12 (3) The limited liability company shall submit with its application for reinstatement:

13 (a) a certificate from the department of revenue stating that all taxes imposed pursuant to Title 15 have
14 been paid; and

15 (b) all annual reports not yet filed with the secretary of state.

16 (4) When all requirements are met and the secretary of state reinstates the limited liability company to
17 its former rights, the secretary of state shall:

18 (a) conform and file in the office of the secretary of state reports, statements, and other instruments
19 submitted for reinstatement;

20 (b) immediately issue and deliver to the reinstated limited liability company a certificate of reinstatement
21 authorizing it to transact business; and

22 (c) upon demand, issue to the limited liability company one or more certified copies of the certificate
23 of reinstatement.

24 (5) The secretary of state may not order a reinstatement if 5 years have elapsed since the dissolution.

25 (6) A restoration of limited liability company rights pursuant to this section relates back to the date the
26 limited liability company was involuntarily dissolved, and the limited liability company is considered to have been
27 an existing legal entity from the date of its original organization."
28

29 **Section 16.** Section 35-8-912, MCA, is amended to read:

30 **"35-8-912. Reinstatement following administrative dissolution.** (1) A limited liability company

1 administratively dissolved may apply to the secretary of state for reinstatement within 5 years after the effective
 2 date of dissolution. The applicant shall file an official application ~~and one copy of the application~~. The application
 3 must:

- 4 (a) recite the name of the company and the effective date of its administrative dissolution;
- 5 (b) state that the ground for dissolution either did not exist or has been eliminated;
- 6 (c) state that the company's name satisfies the requirements of 35-8-103; ~~and~~
- 7 (d) contain a certificate from the department of revenue reciting that all taxes owed by the company
 8 have been paid; AND

9 (E) INCLUDE ALL ANNUAL REPORTS NOT YET FILED WITH THE SECRETARY OF STATE.

10 (2) If the secretary of state determines that the application contains the information required by
 11 subsection (1) and that the information is correct, the secretary of state shall cancel the certificate of dissolution,
 12 prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file
 13 the original of the certificate, and serve the company with a copy of the certificate.

14 (3) When reinstatement is effective, it relates back to and takes effect as of the effective date of the
 15 administrative dissolution, and the company may resume its business as if the administrative dissolution had
 16 not occurred."

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18 **Section 17.** Section 35-12-601, MCA, is amended to read:

19 **"35-12-601. Certificate of limited partnership.** (1) In order to form a limited partnership, a certificate
 20 of limited partnership must be executed, must be filed in the office of the secretary of state, and must set forth:

- 21 (a) the name of the limited partnership;
- 22 (b) the complete street address of the office and the name and complete street address of the agent
 23 for service of process required to be maintained by 35-12-507;
- 24 (c) the name and the complete business street address of each general partner; and
- 25 (d) any other matters the general partners, in their sole discretion, determine to include.

26 (2) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the
 27 office of the secretary of state or at any later time specified in the certificate of limited partnership if, in each case,
 28 there has been substantial compliance with the requirements of this section."

29

30 **SECTION 18. SECTION 35-12-606, MCA, IS AMENDED TO READ:**

1 **"35-12-606. Filing in the office of the secretary of state.** (1) ~~One original and one copy of the~~ The
 2 certificate of limited partnership and of any certificates of amendment, restatement, or cancellation or of any
 3 judicial decree of amendment, restatement, or cancellation must be delivered to the secretary of state. A person
 4 who executes a certificate as an agent or fiduciary need not exhibit evidence of the person's authority as a
 5 prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt
 6 of all filing fees required by law the secretary of state shall:

7 (a) endorse on the ~~original and the copy~~ document the word "filed" and the day, month, and year of the
 8 filing;

9 (b) file the original in the secretary of state's office; and

10 (c) return the copy to the person who filed it or the person's representative.

11 (2) Upon the filing of a certificate of amendment, restatement, or judicial decree of amendment in the
 12 office of the secretary of state, the certificate of limited partnership is amended or restated as set forth in the
 13 certificate. Upon the effective date of a certificate of cancellation or a judicial decree of cancellation, the
 14 certificate of limited partnership is canceled."

15

16 **SECTION 19. SECTION 35-12-611, MCA, IS AMENDED TO READ:**

17 **"35-12-611. Application for renewal of certification.** ~~One original and one copy of an~~ The application
 18 for renewal of certification of a limited partnership must be executed and delivered to the secretary of state. The
 19 application must include but is not limited to the information required by 35-12-601."

20

21 **SECTION 20. SECTION 35-12-612, MCA, IS AMENDED TO READ:**

22 **"35-12-612. Filing of application for renewal of certification -- issuance of certificate.** (1) If the
 23 secretary of state finds that the application for renewal of certification of a limited partnership complies with the
 24 provisions of this part, ~~he~~ the secretary of state shall, when all fees have been paid as provided by rule:

25 (a) endorse on the ~~original and on the copy~~ application the word "filed" and the month, day, and year
 26 of filing;

27 (b) file the original ~~in his office~~; and

28 (c) issue a ~~certificate of renewal, to which he shall affix the copy~~ certification letter.

29 (2) The secretary of state shall return to the general partner or partners submitting the application the
 30 ~~certificate of renewal, together with an attached copy of the application for renewal of certification of a limited~~

1 ~~partnership certification letter.~~"

2

3 **Section 21.** Section 35-12-1302, MCA, is amended to read:

4 **"35-12-1302. Registration.** Before transacting business in this state, a foreign limited partnership shall
5 register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary
6 of state ~~one original and one copy~~ of the application for registration as a foreign limited partnership, signed and
7 sworn to by a general partner and setting forth:

8 (1) the name of the foreign limited partnership and, if different, the name under which it proposes to
9 transact business and register in this state;

10 (2) the state in which it was formed and the date of its formation;

11 (3) the name and address of any agent for service of process on the foreign limited partnership whom
12 the foreign limited partnership desires to appoint, which agent must be an individual resident of this state, a
13 domestic corporation, or a foreign corporation authorized to do business in this state and with a place of
14 business in this state;

15 (4) a statement that the secretary of state is appointed the agent of the foreign limited partnership for
16 service of process if an agent has not been appointed pursuant to subsection (3) or, if appointed, the agent's
17 authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;

18 (5) the address of the office required to be maintained in the state of its organization by the laws of that
19 state or, if not so required, of the principal office of the foreign limited partnership;

20 (6) the name and business address of each general partner; and

21 (7) the address of the office at which is kept a list of the names and addresses of the limited partners
22 and their capital contributions, together with an undertaking by the foreign limited partnership to keep those
23 records until the foreign limited partnership's registration in this state is canceled or withdrawn."

24

25 **SECTION 22. SECTION 35-12-1303, MCA, IS AMENDED TO READ:**

26 **"35-12-1303. Issuance of registration.** (1) If the secretary of state finds that an application for
27 registration conforms to law and all requisite fees have been paid, ~~he~~ the secretary of state shall:

28 (a) endorse on the application the word "filed" and the month, day, and year ~~of the filing thereof~~
29 application was filed;

30 (b) file ~~in his office~~ the original of the application; and

1 (c) issue a certificate of registration to transact business in this state.

2 (2) The certificate of registration, ~~together with a copy of the application,~~ must be returned to the person
3 who filed the application or ~~his~~ the person's representative."

4
5 **NEW SECTION. Section 23. Codification instruction.** (1) [Section 1] is intended to be codified as
6 an integral part of Title 35, and the provisions of Title 35 apply to [section 1].

7 (2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 35, CHAPTER 12, PART 6, AND THE
8 PROVISIONS OF TITLE 35, CHAPTER 12, PART 6, APPLY TO [SECTION 2].

9 - END -